

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72558; File No. SR-ISEGemini-2014-21)

July 8, 2014

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 1, 2014, ISE Gemini, LLC (the “Exchange” or “ISE Gemini”) filed with the Securities and Exchange Commission the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Schedule of Fees to introduce a new higher maker rebate for Priority Customer orders from Tier 1 members that execute a set volume of Priority Customer Maker contracts in a given month. The text of the proposed rule change is available on the Exchange’s Internet website at <http://www.ise.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to introduce a new higher maker rebate for Priority Customer orders from Tier 1 members that execute a set volume of Priority Customer Maker contracts in a given month.<sup>3</sup> The Exchange's Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

Currently, Priority Customer orders that add liquidity on ISE Gemini are provided a maker rebate in Penny Symbols and SPY of \$0.25 per contract for Tier 1, \$0.40 per contract for Tier 2, \$0.46 per contract for Tier 3, \$0.48 per contract for Tier 4, and \$0.50 per contract for Tier 5. In Non-Penny Symbols this maker rebate is \$0.75 per contract for Tier 1, \$0.80 per contract for Tier 2, and \$0.85 per contract for Tier 3 and above.

In order to incentivize members to bring their Priority Customer orders to ISE Gemini, the Exchange now proposes to provide a higher maker rebate to Tier 1 members that execute a set volume of Priority Customer Maker contracts in a given month. In particular, Tier 1 members that execute a Priority Customer Maker average daily volume ("ADV") of 5,000 to 19,999

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<sup>3</sup> A Tier 1 member is a member that does not qualify for Tier 2 or above by executing a Total Affiliated Member ADV of 50,000 contracts, Priority Customer Maker ADV of 20,000 contracts, or a Total Affiliated Member ADV of 40,000 contracts with a minimum Priority Customer Maker ADV of 15,000 contracts.

contracts in a given month will qualify for the new maker rebates for their Priority Customer orders.<sup>4</sup> Priority Customer orders executed by members that meet the volume requirements for this new “sub-tier” will be entitled to a maker rebate of \$0.32 per contract for Penny Symbols and SPY, and \$0.76 per contract for Non-Penny Symbols.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>5</sup> in general, and Section 6(b)(4) of the Act,<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed fee change is reasonable and equitable as the new maker rebate is designed to attract additional order flow from members that do not qualify for any of the higher maker rebate tiers but nevertheless execute a significant volume of liquidity-adding Priority Customer contracts on ISE Gemini. The Exchange believes that providing higher maker rebates for Priority Customer orders executed by members that are not able to reach the higher volume thresholds for Tier 2 but have achieved the volume threshold for this new “sub-tier” will attract that order flow to ISE Gemini, and thereby create additional liquidity to the benefit of all market participants who trade on the Exchange. The Exchange further believes that the proposed rule change is not unfairly discriminatory as all members that achieve the new volume threshold will receive the same maker rebate for their Priority Customer orders. The Exchange does not believe that it is unfairly discriminatory to offer this higher rebate

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<sup>4</sup> Members that execute a Priority Customer Maker ADV of 20,000 contracts or more in a given month would qualify for the higher maker rebates applicable to Tier 2 or above.

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

only to Priority Customer orders as this is the order flow that the Exchange is trying to attract, and all market participants will benefit from the increased liquidity.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>7</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed fee change will promote competition as it is designed to allow ISE Gemini to better compete for order flow by offering higher rebates to Priority Customer orders executed by certain members that do not currently qualify for any of the higher rebate tiers. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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<sup>7</sup> 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>9</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISEGemini-2014-21 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-ISEGemini-2014-21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

Number SR-ISEGemini-2014-21 and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).